



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

November 1, 2004

RECEIVED

NOV 08 2004

Department of Water Resources  
Eastern Region

Randy McAfee  
3721 Antelope Rd  
Moore, ID 83255

Re: Antelope Creek Issues; Your Correspondence dated October, 5, 7, and 18, 2004

Dear Mr. McAfee,

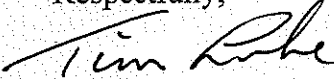
The Department is in receipt of your three separate letters dated October 5, 7, and 18, 2004, regarding water regulation and other water related issues on Antelope Creek. Prior to receiving these letters, the Department received several phone calls from you alleging certain water delivery problems on the creek and asking us to make a field inspection of diversions and conditions on the creek. Some of the issues raised in your calls and correspondence, such as regulation of rights, water measurement, and control of beaver dams have been discussed in recent annual water district meetings or were the subject of other calls or inquiries from concerned water users in the area over the past several years. As a result of these concerns, Steve Burrell of IDWR made a visit to Antelope Creek on October 6, 2004, to inspect diversions and conditions on the creek with you, Preston Bell, and Bob Duke.

Your letter dated October 7, 2004, requests that the Department remove Bob Duke as the watermaster of Water District 34. Section 42-605(9), Idaho Code provides that the Director of IDWR may remove a watermaster whenever such watermaster fails to perform the watermaster's duty, upon a complaint made to the Director in writing by at least one valid water right holder within the water district, and upon both an investigation and hearing by the Director. IDWR is obligated to investigate this matter in accordance with the law. As part of this investigation, IDWR has asked Mr. Duke to respond to the allegations and issues identified in your three letters by December 1, 2004. I believe the field visit by IDWR on October 6, 2004 may also constitute part of IDWR's investigation of your request for watermaster removal. These actions alone do not necessarily limit IDWR's investigation of this matter. IDWR will delay any decision to schedule a hearing on this matter until after Mr. Duke responds to your letters and/or further investigation by IDWR.

In response to other issues raised in your correspondence, IDWR plans send an order requiring installation of measuring devices and headgates to all water right holders with diversions on Antelope Creek and tributaries. Several items identified in your letters were not fully investigated due to lack of time. IDWR will delay further investigation of these items until next year pending availability of time and resources.

Please contact Tim Luke or Steve Burrell at the office listed above if you have questions regarding this matter.

Respectfully,

A handwritten signature in cursive script, appearing to read "Tim Luke".

Tim Luke  
Water Distribution Section

cc: Gary Spackman, IDWR  
Bob Duke, Water District 34 Watermaster  
IDWR Eastern Region

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DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

November 1, 2004

Bob Duke  
Water District 34 Watermaster  
PO Box 53  
Mackay, ID 83251

RECEIVED

NOV 08 2004

Department of Water Resources  
Eastern Region

Re: Antelope Creek Issues; Request to Remove Watermaster

Dear Bob,

Attached to this correspondence are three separate letters from Randy McAfee addressed to the Director of the Idaho Department of Water Resources (IDWR) regarding water related issues on Antelope Creek. One of these letters requests your removal as watermaster. It appears these letters were not copied to you.

Section 42-605(9), Idaho Code provides that the Director of IDWR may remove a watermaster whenever such watermaster fails to perform the watermaster's duty, upon a complaint made to the Director in writing by at least one valid water right holder within the water district, and upon both an investigation and hearing by the Director. IDWR is obligated to investigate this matter in accordance with the law.

You may have already attempted to address some of the issues raised by Mr. McAfee's letters. Nonetheless, as part of this investigation, IDWR asks that you respond in writing to the allegations and issues identified in the three attached letters from Mr. McAfee. IDWR asks that you respond to these letters in writing on or before December 1, 2004.

Please contact Gary Spackman or me at the office listed above if you have questions regarding this matter.

Respectfully,

Tim Luke  
Water Distribution Section

cc: Gary Spackman, IDWR  
IDWR Eastern Region  
Randy McAfee

Oct. 5, 2004

Mr. Burrell and Mr. Luke

Here are some of the issues in Antelope starting at the top

Beaver dams on forest

Beaver dams and no lockable head gates or measuring devises on several properties.

Jack Harrop filling main channel with rocks contrary to ruling by Bob Fleener

Reeses taking water from Antelope to Dry fork contrary to ruling by Glen Saxton

Watermaster allowing Antelope water to go to Cherry Creek when NO water right exits

Jack Hortons fish ponds being filled

Mountain Springs using a backhoe to block Dry Fork to irrigate a pasture

Beaver Dam in the narrows {Keller property} in the rocks

Alvin Crawford damming the whole creek to put water in his ditch

The removal of the cement structure in the back flood channel below Crawfords

Dale Huffaker installing an electric pump at the Hanrahan headgate {no water right}

Bob Shawver blocking off the main channel so all water in that channel goes on his property.

The Watermaster allowing water to continue to be taken when no right is on because he didn't think it would hurt.

Our sincerest thank you for responding



Trilby McAfee

Hanrahan Ditch Secretary

RECEIVED  
OCT 20 2004  
DEPARTMENT OF  
WATER RESOURCES

October 7, 2004

Director Dreher

October 6, 2004, Myself along with Preston Bell, Steve Burrell IDWR and Watermaster Dist. 34 Bob Duke toured the Antelope Valley to address the attached list of concerns.

I have had a difficult time receiving my water this fall and late summer. I have spoke to Mr. Duke on several occasions in reference to individuals toward the head of Antelope taking water when their degree was not on or no water right even existed.

It was clear that Mr. Duke had informed waterusers prior to our visit as numerous users met us at different locations and angrily expressed their views on our being there.

Bill and Josh Reese were extremely furious at their headgate when the fact that they were taking water when they had no water right on. Bill stated they weren't stealing water the Watermaster CALLED THEM and told them they could take it. When Bob was confronted he confirmed that yes he had along with calling Kings and Waddoups. He made a judgment call that it was better to have 4 or 5 users up Antelope having the water than just me. There is also water going to Mountain Springs and Keeles.

12 days ago the water was in lower Antelope and the Hanrahan ditch providing water to Crawford, Shawver, Myself, Bradford and Crump all with 1879 or 1880 rights which are senior to any of those individual rights up Antelope that Bob gave our water to.

Bob Duke blatantly overstepped his authority. He has intentionally deprived individuals of their legal rights in order to give water to his preferred friends.

I respectfully request Bob Duke be removed from office immediately.

As the attached list will show, Antelope is a free for all. The rest of Water District 34 doesn't seem to be fairing any better under Mr. Dukes guidance. Would you consider the Idaho Department of Water Resources coming in and taking over enforcement of all water rights for the 2005 season to get everyone back on track?

Sincerely

  
Randy McAfee

Attachment

RECEIVED  
OCT 20 2004  
DEPARTMENT OF  
WATER RESOURCES

October 18, 2004

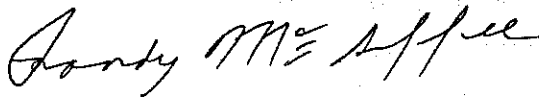
Director Dreher

Updating you on my previous letters, Reeses shut the water they were taking off and it is unknown if any other persons were told to shut off as per my conversation with Bob Duke on Oct. 6, 2004.

The water reached my property October 10<sup>th</sup> for stockwater.

It is unknown if Mountain Springs or David Keele shut off any water as Mr. Keele stated he would have anyone arrested for trespass if they crossed his property to look in the ditch. This is the same ditch that Mr. Duke allowed Mountain Springs to take water out of when they have no degree out of Antelope for their Cherry Creek property.

Who do I call when the Watermaster is the one violating the law.



Randy McAfee